

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

KELVIN BATISTE

CIVIL ACTION NO. 6:17-CV-0251

VS.

SECTION P

JUDGE REBECCA F. DOHERTY

**SHERIFFS OFFICE ST. MARTIN PARISH, MAGISTRATE JUDGE WHITEHURST
ET AL**

REPORT AND RECOMMENDATION

Plaintiff Kelvin Batiste filed a civil rights complaint (42 U.S.C. §1983) on February 8, 2017. On May 24, 2017, the undersigned issued a Memorandum Order directing plaintiff to amend his complaint to cure deficiencies and, alternatively to dismiss claims, requests for relief, or defendants plaintiff is unable to cure through amendment. [Rec. Doc. 9] That order was mailed to plaintiff at the facility from which he filed his complaint. Plaintiff has not responded to that order.

LAW AND ANALYSIS

Federal Rules of Civil Procedure Rule 41(b) permits dismissal of claims “For failure of the plaintiff to prosecute or to comply with ... any order of court...” The district court also has the inherent authority to dismiss an action *sua sponte*, without motion by a defendant. *Link v. Wabash R.R.Co.*, 370 U.S. 626, 630-31, 82 S.Ct. 1386, 1388-89, 8 L.Ed.2d 734 (1962). “The power to invoke this sanction is necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars of the [d]istrict [c]ourts.” *McCullough v. Lynaugh*, 835 F.2d 1126, 1127 (5th Cir.1988).

Therefore,

IT IS RECOMMENDED that plaintiff’s Civil Rights Complaint be **DISMISSED** in accordance with the provisions of FRCP Rule 41(b).

Under the provisions of 28 U.S.C. Section 636(b)(1)(C) and Rule 72(b), parties aggrieved by this recommendation have fourteen (14) business days from service of this report and recommendation to file specific, written objections with the Clerk of Court. A party may respond to another party's objections within fourteen (14) days after being served with a copy of any objections or response to the district judge at the time of filing.

Failure to file written objections to the proposed factual findings and/or the proposed legal conclusions reflected in this Report and Recommendation within fourteen (14) days following the date of its service, or within the time frame authorized by Fed.R.Civ.P. 6(b), shall bar an aggrieved party from attacking either the factual findings or the legal conclusions accepted by the District Court, except upon grounds of plain error. *See, Douglass v. United Services Automobile Association*, 79 F.3d 1415 (5th Cir. 1996).

THUS DONE AND SIGNED in Chambers at Lafayette, Louisiana, this 7th day of August, 2017.


CAROL B. WHITEHURST
UNITED STATES MAGISTRATE JUDGE